

## **REMARKS**

Applicants thank the Examiner for the very thorough consideration given the present application.

Claims 1, 3, 4 and 6-13 are now present in this application. Claims 1, 3, 6, 7, 9 and 13 are independent. By this amendment, claim 5 is canceled and the subject matter of claim 5 is added to claim 1. No new matter is involved.

Reconsideration of this application is respectfully requested.

### **Premature Final Rejection**

Applicants traversed the rejection of claim 5 on the merits by presenting several detailed arguments to the effect that EP '028 does not disclose the subject matter of claim 5. These arguments are found on pages 8 and 9 of the Amendment filed on January 29, 2007.

The outstanding final Office Action continues to reject claim 5, with the basis for the resonance unit spring feature of claim 5 being rejected solely on EP '028. The secondary reference to Witt is not applied with respect to this feature.

Nevertheless, the outstanding Office Action fails to respond to those detailed arguments found on pages 8 and 9 of the January 29, 2007 Amendment, in violation of MPEP § 707.07(f). As a result, this Action should not have been made a final Office Action, and the finality of the outstanding Office Action should be withdrawn.

### **Entry of Amendments**

Applicants respectfully submit that it is proper to enter the Amendment, which cancels claim 5 and adds the subject matter of claim 5 to claim 1 because (1) the outstanding Office Action should not have been made a final Office Action, and (2) the subject matter of canceled claim 5 has already been examined on its merits, so the claim amendments do not require further consideration and/or search.

### **Obviousness-Type Double Patenting Rejection**

Claims 1, 3, 5 and 10-12 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-3 and 6-8 of Application Serial No. 10/748,295 in view of EP 0 786 228 ("EP '228"). This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action and is not being repeated here.

While not conceding the appropriateness of the Examiner's rejection, but merely to advance prosecution of the instant application, Applicants note that Application No. 10/748,295 has become abandoned for failing to respond to the final Office Action mailed March 27, 2007, thereby mooting this rejection. Accordingly, reconsideration and withdrawal thereof are respectfully requested.

### **Rejection Under 35 U.S.C. § 103**

Claims 1, 5, 10-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over EP '228 in view of U.S. Patent 1,689,811 to Witt. This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action and is not being repeated here.

Claim 1 has been amended to recite a combination of features including (1) an agitator roll rotatably installed inside the suction port, a plurality of brushes being arranged on the agitator roll in the length direction; (2) an agitator driving unit including a rotating driving motor having a drive shaft with a rotating lever attached thereto for generating a driving force for performing forward/backward reciprocating rotation in a predetermined angle for driving the agitator roll to perform reciprocating rotation in a predetermined angle range and a driving force transmitting unit for transmitting the driving force of the driving motor to the agitator roll; and (3) a resonance unit for resonating the reciprocating rotation of the agitator driving unit, wherein the resonance unit comprises a spiral spring of which an end is fixed to the motor shaft of the driving motor, and another end is fixed to the driving motor or the casing.

Applicants respectfully submit that neither EP '228 nor Witt discloses this combination of features, either explicitly or inherently, or in any combination thereof.

The Office Action refers to "a spiral spring resonance unit 204f" in this rejection but an analysis of EP '228 reveals that element 204f, discussed in col. 17, lines 36-43, is described as "a catch 204f fastened at the distal end of the rod." Nevertheless, because EP '228 does disclose springs, Applicants will address the springs disclosed by EP '228.

One spring 107 is disclosed in the paragraph bridging col. 13 and col. 14 and is described, with respect to Figs. 6 and 7, as being “disposed between the other support plate 109 and a bearing 110 opposite it so as to constantly urge movable brush 105 toward the rotary piece 106 side.” An inspection of Figs. 6 and 7 reveals that spring 107 is used to translate the movable brush 105 from left to right, and does not have one end fixed to the motor shaft of the driving motor and does not have the other end fixed to the driving motor or the casing, as recited in claim 5, which is the only claim under rejection that positively recites a spring. A second spring, labeled as number 117, is disclosed in the second embodiment shown in Figs. 8-9, which moves tie rod 118 left or right. A third spring, labeled as number 123, is shown in the fourth embodiment of Fig. 10, and is used to constantly press and urge the upper extending portion of second brush 121 toward rotary brush 119 to permit second brush 121 to oscillationally swing back and forth about support shaft 122 due to the variation in height of cam 120 because of projection 120a (see Fig. 10 and col. 15, lines 16-56). A fourth spring 123, shown in the fifth embodiment of Figs. 11 and 12, and described in col. 16, lines 1-45, also urges second brush 121 towards the rotary brush 119. Additionally, an anti-vibration coil 316 is shown in Fig. 29 and discussed in col. 21, lines 7-20 to prevent movable brush unit 305 from vibrating.

None of the springs shown in EP ‘228 appears to comprise a spiral spring of which an end is connected to the fixed motor shaft of the driving motor and another end is fixed to the driving motor or the casing.

All of these arguments were presented in the Amendment filed on January 29, 2007, yet none of them are addressed in this rejection, in violation of MPEP § 707.07(f).

Witt does not disclose a resonance unit spring feature whatsoever.

Because neither EP '228 nor Witt discloses the claimed resonance unit spring feature, no matter how these references are combined, they do not render obvious the claimed invention.

Thus, the Office Action does not make out a *prima facie* case of obviousness of the claimed invention.

Accordingly, reconsideration and withdrawal of this rejection of claims 1, 5 and 10-12 are respectfully requested.

### **Allowable and Allowed Subject Matter**

The Examiner states that claims 6-9 and 13 are allowed, and that claim 4 would be allowable if rewritten in independent form.

Applicants thank the Examiner for the allowance of claims 6-9 and 13 and for the indication of allowable subject matter in claim 4. Claim 4 has not been rewritten in independent form but is believed to be allowable because it depends from claim 1, which has been rewritten to include the subject matter of canceled claim 5, which is believed to patentably define over the applied art for the reasons discussed above.

### **Conclusion**

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently

outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration No. 46,472, at (703) 205-8000, in the Washington, D.C. area.

Pursuant to the provisions of 37 C.F.R. §§ 1.17 and 1.136(a), the Applicants hereby petition for an extension of three (3) months to October 20, 2007 in which to file a reply to the Office Action. The required fee of \$1,050.00 is enclosed herewith.

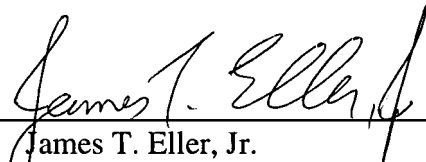
Prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Date: October 19, 2007

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By:   
James T. Eller, Jr.  
Reg. No.: 39,538

P.O. Box 747  
Falls Church, Virginia 22040-0747  
Telephone: (703) 205-8000